

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

**William B. Stork, Jr.,**  
Petitioner-Appellant,

v.

**Polk County Board of Review,**  
Respondent-Appellee.

**ORDER**

**Docket No. 09-77-1495**  
**Parcel No. 312/02105-055-000**

On June 2, 2010, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioner-Appellant, William B. Stork, Jr., requested a hearing and submitted evidence in support of his petition. He was self-represented. The Board of Review designated Assistant County Attorney, Ralph E. Marasco, Jr., as its legal representative. It also submitted documentary evidence in support of its decision. The Appeal Board now having examined the entire record, heard the testimony, and being fully advised, finds:

***Findings of Fact***

William B. Stork, Jr., owner of property located at 8516 Prairie Avenue, Urbandale, Iowa, appeals from the Polk County Board of Review decision reassessing his property. According to the property record card, the subject property consists of a split-foyer dwelling having 1274 total square feet of living area, a 1104 square foot basement with 576 square feet of finished area, and two-car basement garage. The dwelling was built in 1966, and has a 4+05 quality grade. The dwelling is situated on a 0.248 acre corner lot.

The real estate was classified as residential on the initial assessment of January 1, 2009, and valued at \$151,400, representing \$40,400 in land value and \$111,000 in dwelling value.

Stork protested to the Board of Review on the grounds (1) the assessment is not equitable as compared to similar properties in the taxing jurisdiction under Iowa Code 441.37(1)(a), and there has been a downward change in value under sections 441.37(1) and 441.35. He claimed home values have gone down 20% in the past two years and \$137,100, allocated \$31,400 to land and \$105,700 to the dwelling, was the actual value and a fair assessment of the property. The Board of Review denied the protest stating, "The assessed value of this property was not changed because there has been no change downward in value since the last reassessment."

Stork filed his appeal with this Board and claimed the ground of downward change in value. In a re-assessment year, a challenge based on downward change in value is akin to a market value claim. *See Dedham Co-op. Ass'n v. Carroll County Bd. of Review*, 2006 WL 1750300 (Iowa Ct. App. 2006). Accordingly, we do not consider downward change as a separate claim and consider only the claim of over-assessment.

Stork offered articles from local and national publications indicating a nation-wide 14% to 20% decline in real estate values. One article from the Des Moines Register dated March 21, 2009, reported that 67% of Des Moines-area homes have lost value, and nearly 14% of the homes sold were in foreclosure during the preceding twelve months.

Stork submitted evidence of two sales in his neighborhood in which the properties sold for considerably less than their assessed values. One of these sales occurred February 2, 2010, after the closing date, and was sold by a lender. It is assessed at \$161,200 and sold for \$140,000. We note that the property record card shows a 2006 sale of this property for \$161,900. According to Stork, the other sale was a foreclosure. It is assessed at \$152,300 and sold for \$115,000. We note that the 2005 sale price of this property was \$160,000. Because the sales prices are not adjusted for the distress nature of the transactions, they are not reliable indicators of the fair market values of the properties under section 441.21.

Stork also presented two listings. The first one he believes is comparable to his house in style and size, and is also similarly located on a corner lot at another busy intersection in Urbandale. This house is listed for \$142,900 and Stork does not believe the seller will get that much. The second listing he considers superior to the subject property and has been listed for months at \$159,900. Stork believes this demonstrates the depressed market. But the listing price of a property is not necessarily an accurate indication of its fair market value.

Stork reports the location of his home at the busy intersection of Prairie Avenue and 86th Street, and the fact that it faces 86th Street, negatively impacts the value of his property because of the heavy traffic and noise. He also testified an additional traffic lane was added to 86th Street several years ago which reduced his setback from the road and magnified these issues. We note the cost report for the subject property shows the land and dwelling have been given a 5% economic obsolescence discount because of the traffic.

The Board of Review appraiser analysis listed five sales. Three occurred in 2007 and two occurred in 2008. Three were split-foyer homes and one was a ranch. The comparables were similar to the subject property in size, age, and location. Adjusted sale prices ranged from \$143,982 to \$170,153. Adjusted price per square foot ranged from \$106.57 to \$143.28 with a median of \$131.70 per square foot. The subject property is assessed well within this range at \$118.84 per square foot.

Reviewing all the evidence, we find that substantial evidence is lacking to support Stork's claim of over-assessment. While he did present evidence suggesting lowered property values and increased foreclosures nationally and in the Des Moines area generally, the market sales comparables for his Urbandale residence support his assessment as of January 1, 2009.



### *Conclusion of Law*

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

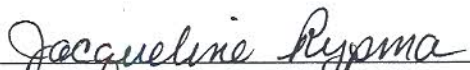
In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are also to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995).

Viewing the evidence as a whole, we determine that substantial evidence was lacking to support Stork's claim of over-assessment in the January 1, 2009, assessment. We, therefore, affirm the property assessment as determined by the Board of Review. The Appeal Board determines that the property assessment value as of January 1, 2009, is \$151,400, representing \$40,400 in land value and \$111,000 in dwelling value.

THE APPEAL BOARD ORDERS that the January 1, 2009, assessment as determined by the Polk County Board of Review is affirmed.

Dated this 30 day of JUNE 2010.

  
Jacqueline Rypma, Presiding Officer

  
Karen Oberman, Board Member

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>6.30, 2010</u>	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	